IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

FRIDAY, THE 14TH SEPTEMBER 2007 / 23RD BHADRA 1929

MACA.No. 502 of 2003()

OPMV.665/1995 of MOTOR ACCIDENT CLAIMS TRIBUNAL, IRINJALAKUDA

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APPELLANT/PETITIONER IN OP(MV)

PRADEEP S/O. KUMARAN,
JNATTUVETTIL HOUSE, KUNNAPILLY P.O.,
MELOOR VILLAGE, MUKUNDAPURAM TALUK.

BY ADV. SRI.P.V.BABY

RESPONDENTS: RESPONDENTS IN OP(MV)

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1. P.R.JAINISAN S/O. P.K.RAGHAVAN,
PEENIKKAL HOUSE, VELLANCHIRA P.O.

2. N.C.SUNIL LAL, NJATTUVETY HOUSE,
KUNNAPPILLY, THRISSUR DISTRICT.

3. DISTRICT INSURANCE OFFICER,
DIRECTOR OF INSURANCE, AYYANTHOLE, THRISSUR-3.

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 14/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR ,J.

M.A.C.A.No.502 of 2003

Dated, this the 14th day of September, 2007

JUDGMENT

The claimant in O.P.(MV) No.665/1995 on the file of the Motor Accidents Claims Tribunal, Irinjalakuda is the appellant. Appellant filed Original Petition claiming compensation alleging that at about 9.30 p.m. on 15.9.1994 while he was travelling as a pillion rider in a motor cycle bearing registration No.KL 8 D 2243 he sustained injuries in a road traffic accident. It was alleged that the accident occurred due to the negligence of the rider of the motor cycle. Initially first respondent alone was impleaded. Subsequently respondents 2 and 3 were impleaded as the registered owner and insurer of the motor cycle. Respondents 1 and 2 did not contest. Third respondent insurer filed written statement contending that no accident took place as alleged by the appellant. Quantum of compensation claimed was also disputed. Tribunal found that if the appellant is to be awarded compensation he was entitled to get Rs.17,300/-. But the Original Petition was dismissed on the ground that the appellant failed to prove negligence. The only document produced to prove negligence was Ext.A1, treatment-cum-discharge certificate issued by St. James Hospital, Chalakudy. At the time of oral evidence appellant deposed that accident occurred at midnight while he was travelling as pillion rider in a bike bearing registration No.KL8 D 2249. Number of the vehicle given in the Original Petition was KL 8 D 2243 and the time of accident was at

9.30 p.m. No intimation was issued from the hospital to the police. No FIR was registered. According to the appellant he filed a private complaint. When case records were called for it was reported that records were destroyed. The finding of the Tribunal that the appellant failed to prove the negligence alleged is a finding of fact which does not call for any interference. So I do not find any reason to interfere with the award passed by the Tribunal. There is no merit in the appeal and the same is only to be dismissed.

In the result, appeal is dismissed.

K. PADMANABHAN NAIR,
JUDGE.

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K.PADMANABHAN NAIR, J.

M.A.C.A.No.502 of 2003

JUDGMENT

14th September, 2007.